

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MARCELLUS GERMAINE
TONEY,

Plaintiff,

v.

SAN FRANCISCO POLICE
DEPARTMENT,

Defendant.

No. C 08-3869 JSW (PR)

ORDER OF DISMISSAL

On August 12, 2008, Plaintiff filed a *pro se* civil rights action in this Court. On April 9, 2009, this Court dismissed the complaint with leave to amend within thirty days of the Court's order. In the Court's order, Plaintiff was notified that failure to amend by the designated time would result in a dismissal of the case.

More than thirty days have passed since April 9, 2009 and Plaintiff has not responded to the Court's order. Accordingly, this case is DISMISSED without prejudice for failure to prosecute and to comply with a court order pursuant to Federal Rule of Civil Procedure 41(b). *See Link v. Wabash R.R.*, 370 U.S. 626, 633 (1962); *McKeever v. Block*, 932 F.2d 795, 797 (9th Cir. 1991). The Clerk shall close the file and enter judgment in this matter.

IT IS SO ORDERED.

DATED: May 26, 2009



JEFFREY S. WHITE
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

MARCELLUS GERMAINE TONEY,
Plaintiff,

Case Number: CV08-03869 JSW

CERTIFICATE OF SERVICE

v.

SAN FRANCISCO POLICE DEPARTMENT
et al,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on May 26, 2009, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Marcellus Germaine Toney
F81986
P.O. Box 950
Folsom, CA 95763

Dated: May 26, 2009



Richard W. Wieking, Clerk
By: Jennifer Ottolini, Deputy Clerk